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COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 20 of the provisional agenda

RATIONALIZATION OF THE WORK OF THE COMMISSION

Note by the Secretary-General

On 26 August 1999, the Sub-Commission on the Promotion and Protection of Human Rights, by decision 1999/115, requested the Secretary-General to submit certain financial information to the Commission's inter-sessional working group on enhancing the effectiveness of the mechanisms of the Commission on Human Rights and to the Commission itself at its fifty-sixth session. In accordance with the decision of the Sub-Commission, the requested financial information is annexed to this note.

GE.00-11162 (E)

Annex

HUMAN RIGHTS MACHINERY - COMPARATIVE MEETING COSTS

(Commission on Human Rights, Sub-Commission, Human Rights Committee, Committee on the Rights of the Child)

Section 22 "Human rights" (travel and daily subsistence allowance)

Account description	1998 (committed)	1999 (estimated)	Total
Commission on Human Rights	80 032	54 000	134 032
Sub-Commission	308 871	341 845	650 716
Human Rights Committee	541 041	482 400	1 023 441
Committee on the Rights of the Child	276 122	459 200	735 322

Section 27 E "Conference services" (meeting services)

Account description	1998 (estimated)[a]	1999 (estimated)[a]	Total
Commission on Human Rights	5 954 127	6 013 668	11 967 795
Sub-Commission	1 856 051	1 874 612	3 730 663
Human Rights Committee[b]	2 809 185	2 837 277	5 646 462
Committee on the Rights of the Child[b]	3 705 039	3 742 089	7 447 128

Total

Account description	1998	1999	Total
Commission on Human Rights	6 034 159	6 067 668	12 101 827
Sub-Commission	2 164 922	2 216 457	4 381 379
Human Rights Committee	3 350 226	3 319 677	6 669 903
Committee on the Rights of the Child	3 981 161	4 201 289	8 182 450

[a] Data provided by UNOG Budget Section.
[b] Three meetings annually.

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CIVIL AND POLITICAL RIGHTS

INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND
THE GENDER PERSPECTIVE

Situation of human rights in East Timor

Note by the Secretary-General

1. At its special session on the human rights situation in East Timor from 23 to 27 September 1999, the Commission on Human Rights adopted resolution S-4/1, entitled "Situation of human rights in East Timor", in which it requested the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative of the Secretary-General on internally displaced persons, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women and the Working Group on Enforced and Involuntary Disappearances to carry out missions to East Timor and report on their findings to the Commission on Human Rights at its fifty-sixth session and, on an interim basis, to the General Assembly at its fifty-fourth session.

2. The Commission on Human Rights will have available to it the report on the joint mission to East Timor undertaken by Ms. Asma Jahangir, Special Rapporteur on extrajudicial, summary or arbitrary executions, Sir Nigel Rodley, Special Rapporteur on the question on torture, and Ms. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences, submitted to the General Assembly in accordance with Commission resolution S-4/1 (A/54/660).

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GE.99-16414 (E)

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Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 7 January 2000 from the Permanent Representative of Azerbaijan to the United Nations Office at Geneva addressed to the secretariat of the Commission on Human Rights

I have the honour to transmit annexed* herewith the Decree by the President of the Republic of Azerbaijan on the tenth anniversary of the 20 January tragedy.

I would be grateful if you could circulate the present letter and the above-mentioned Decree as an official document of the fifty-sixth session of the Commission on Human Rights under item 9 of the provisional agenda.

(Signed) Isfandiyar Vahabzada
Ambassador
Permanent Representative

* The annex is circulated in the language of submission and English only.

Annex

DECREE ISSUED BY THE PRESIDENT OF THE AZERBAIJAN REPUBLIC CONCERNING THE TENTH ANNIVERSARY OF THE TRAGEDY OF 20 JANUARY

On 20 January 1990 a terrible crime was committed against the people of Azerbaijan. As a reprisal against the peaceful population which had gone out into the streets as a mark of protest against attempts to violate the territorial integrity of Azerbaijan, the unjust and prejudiced policy pursued by the leadership of the former USSR towards the people of Azerbaijan, and the incompetent performance of the local leadership, Soviet military forces were illegally brought into Baku and a number of other areas of the Republic. As a result of punitive measures inflicted with unprecedented brutality, hundreds of innocent citizens of Azerbaijan were injured and killed in an act of mass terror against the people of Azerbaijan.

On the eve of the events of 20 January, the policy pursued by the leadership of the Communist Party of the Soviet Union in conflict with the interests of the people, and the lack of objectivity and the prejudice displayed by the central authorities against the sovereignty and territorial integrity of Azerbaijan, prompted immense anger on the part of the population of the Republic. The deal concluded by the leadership of Azerbaijan at the time with the central authorities on the Nagorny-Karabakh issue gave rise to strong protests in the Republic.

The artificially created so-called Nagorny-Karabakh problem starting in 1987 was perceived by the people of Azerbaijan from the outset as an attack against the territorial integrity of the Republic and the constitutional rights of citizens. Although the inviolability of our borders has been repeatedly reaffirmed officially by State authorities at various levels, a policy whose aim was the removal of the Nagorny-Karabakh autonomous region from Azerbaijan began to be implemented step by step.

As late as March 1988, the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the USSR, by adopting a special decision on speeding up the socio-economic development of the Nagorny-Karabakh autonomous region, essentially laid the foundations for the removal of Nagorny-Karabakh from the authority of the Azerbaijan SSR. This decision, which lacked any objective basis, and was adopted on far-fetched pretexts, granted Nagorny-Karabakh exceptional rights and allocated large sums, while the task of settling many problems facing the region was placed directly in the hands of ministries and departments at the Union level. A decision taken by the Supreme Soviet of the Azerbaijan SSR on 17 June 1988 noted that the steps being taken under the above-mentioned decision of the central authorities "create favourable conditions for speeding up the development of productive forces and meeting the economic and spiritual needs of both the Armenian and the Azerbaijani population, as well as those of other ethnic groups in the autonomous region".

The next step taken towards removing the Nagorny-Karabakh autonomous region from the authority of Azerbaijan was a decree issued on 12 January 1989 by the Presidium of the Supreme Soviet of the USSR on the introduction of a special form of administration in the autonomous region. The administration of Nagorny-Karabakh was entrusted to a Special Administration Committee set up under the chairmanship of A.I. Volsky, a representative of the central authorities. This was tantamount to removing Nagorny-Karabakh from the Azerbaijan SSR.

In the official documents it adopted, the leadership of the USSR endeavoured to give the impression that by taking steps to normalize the situation in the region, it was acting even-handedly vis-à-vis both Azerbaijan and Armenia. At the same time the prejudiced attitude of the central authorities to Azerbaijan and Azerbaijanis was manifest. As late as 1988

Azerbaijanis were subjected to ideological aggression perpetrated in a deliberate manner in the centrally run Soviet mass media and in various parts of the press in Armenia. The main aim of this campaign was to create a negative image of Azerbaijanis. This could be regarded as a preparatory stage in a large-scale ethnic cleansing operation begun in the Armenian SSR in 1988 and also in the Nagorny-Karabakh autonomous region. During the unprecedentedly brutal eviction of Azerbaijanis from their birthplaces in Armenia, many of our compatriots were killed, including old people, children and women. At the same time as the official State machinery, the security forces and the mass media in the USSR focused an extraordinary amount of attention on the Nagorny-Karabakh problem, the large-scale tragedy of the Azerbaijani people was met with complete silence. The attitude of indifference to the issue adopted by the leadership of Azerbaijan constituted a veritable crime against its own people.

As a result of this attitude by the leadership of Azerbaijan, the Supreme Soviet of the Armenian SSR was emboldened to adopt a decision on 1 December 1989 annexing Nagorny-Karabakh to the Armenian SSR. On 15 January 1990, a few days before the events of 20 January, the Presidium of the Supreme Soviet of the USSR adopted a decree entitled "Introduction of a state of emergency in the Nagorny-Karabakh autonomous region and a number of other regions" which essentially put an end to the hopes of Azerbaijanis of returning to their homes in Nagorny-Karabakh. It was clear from the very title of the decree that the issue of the status of the autonomous region and "a number of other regions" had already been placed in doubt.

The pursuit of a prejudiced policy against Azerbaijan by the central authorities, and the display by the Republic's leadership of complete indifference to the fate of the people, provoked feelings of anger and protests among the broad masses of the people. They realized ever more clearly that the leadership of Azerbaijan displayed impotence and irresolution in halting attacks on the fate of the Republic and the people, and sometimes even hatched secret plans of betrayal of the people, colluding with the central authorities in order to retain their positions of leadership. The people had no alternative but to assume full responsibility and work to prevent the implementation of the plans of betrayal.

The leadership of the USSR opted for the path of open violence against the people, who had dared to call for the restoration of justice in the Republic. The seizure of Baku on 20 January 1990 by a large contingent of the Soviet army composed of special units and Interior Ministry forces, without any declaration of a state of emergency, was accompanied by particular brutality and unprecedented bestiality.

The tragedy of 20 January, perpetrated with the aim of destroying the faith and the will of the people who had dared to speak out, to degrade their national dignity and to demonstrate the strength of the Soviet military machine, constituted military aggression and a crime committed by the totalitarian communist regime against the Azerbaijani people.

In the face of the crime and its consequences, the Republic's leadership was striving by every means to mask the truth of the tragedy. The fact that the majority of the Republic's political and State leadership did not attend the session of the Supreme Soviet of the Azerbaijan SSR which was convened on 22 January 1990 to discuss the January tragedy at the demand of the people and at the initiative of a group of deputies confirmed once again their indifference to the fate of the people and their full or partial collusion in the crime that had been committed. The leadership of the Republic did not even deem it necessary to attend the ceremony at which the martyrs were buried.

The Popular Front of Azerbaijan, which repeatedly demanded a political review of the events of 20 January, also failed to make use of the opportunities it enjoyed during its time in

power to conduct a political review of the tragedy. As a result, despite the fact that much time passed following the events, the terrible crime committed against the people by the leadership of the former USSR and Azerbaijan remained unexposed.

During the period of Soviet rule in Azerbaijan, actual facts and evidence gathered by the broad masses of the people in connection with the tragedy of 20 January and transmitted to the State investigating commission were deliberately removed and shipped out of Azerbaijan. At that time the procurator's office and the law enforcement machinery in Azerbaijan failed to take appropriate steps to conduct an investigation. Indeed, a series of secret documents connected with the tragedy of 20 January, including important archive documents, were partially or completely destroyed.

Despite the fact that the events which occurred in other parts of the USSR, including Tbilisi and the Baltic countries, were the subject of consideration by the Soviet Government and the Congress of People's Deputies, the events which occurred during the tragedy of 20 January were knowingly misrepresented and were condemned to false interpretation and oblivion.

Only in 1994 were serious steps taken to conduct a proper assessment of the events of 20 January. On 5 January 1994, the President of the Azerbaijan Republic recommended, by decree, that the Melli Mejlis should conduct a complete political and juridical review of the events of 20 January. The Melli Mejlis of the Azerbaijan Republic devoted a special session to the matter and, during meetings which lasted several days, revealed the genuine causes of the January events and identified the true guilty parties. In a decision of 29 March 1994 the Melli Mejlis set out its political and juridical assessment of the tragic events of 20 January 1990.

The tragedy of 20 January, which was one of the bloodiest acts of terror perpetrated by totalitarianism during the twentieth century, and a crime against the people of Azerbaijan, was in essence a dreadful act against mankind, humanism and humanity. Those who committed this crime have yet to be punished. Our people are certain that the guilty parties must bear responsibility before history, mankind, and also the people of Azerbaijan.

Despite the fact that on 20 January the people of Azerbaijan were subjected to military, political and moral aggression, they nevertheless demonstrated to the entire world that they were true to the historical traditions of heroism and resolve to oppose the severest ordeals in the name of the freedom and independence of their motherland, not sparing even their own lives for this cause. The sons and daughters of our motherland, who were martyred in the name of the freedom and independence of Azerbaijan, during the bloody events of January 1990, have by their selflessness and determination to sacrifice themselves written a shining page in the heroic annals of our people. Even today the people of Azerbaijan are proud of their daughters and sons who were ready to give their lives in the defence of their national dignity.

On the eve of the tenth anniversary of the tragedy of 20 January, in honouring with profound sorrow the bright memory of our fellow citizens who heroically gave their lives in the name of the freedom of Azerbaijan, I decide:

1. That, bearing in mind the exceptional significance of the bloody January tragedy in the history of Azerbaijan as the acme of heroism and selflessness, large-scale special ceremonies devoted to the tenth anniversary of the tragedy shall be held in all the towns and cities, districts and villages of the Azerbaijan Republic.

2. That the Ministry of Defence, the Ministry of Education, the Ministry of Culture, the Ministry of Youth and Sport and the State Committee on Women's Problems of the Azerbaijan Republic shall, for the purpose of educating the young generation in a spirit of

patriotism, independence and fidelity to the values of the national spirit, arrange for the holding of large-scale events, conferences and thematic activities devoted to the tragedy of 20 January.

3 That the Academy of Sciences of Azerbaijan and the Ministry of Education shall ensure, together with the conduct of fundamental scientific research reflecting the various stages of the struggle of our people throughout history for their freedom and independence, objective scientific treatment of the tragedy of 20 January in the context of that struggle, as well as the conduct of special scientific meetings and conferences devoted to that event and the preparation of various publications.

4 That the Ministry of Foreign Affairs of the Azerbaijan Republic shall, for the purpose of bringing to the notice of public opinion in various countries the true essence of the tragedy of 20 January on the occasion of the tenth anniversary, draw up and implement a programme of measures presenting the bloody events of January as an act of aggression and terror perpetrated by the Soviet totalitarian regime against the people of Azerbaijan.

5 That the Ministry of Press and Information of the Azerbaijan Republic, the State radio and television company and the editorial offices of newspapers and journals shall ensure the publication and broadcasting of materials dealing with the tenth anniversary of the tragedy of 20 January.

6 That the "Azerkinovidio" production association shall prepare a full-length documentary film devoted to the events of 20 January.

7 That the Cabinet of Ministers shall deal with matters arising from the present decree.

Heydar Aliyev
President
Azerbaijan Republic

Baku, 16 December 1999

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ORGANIZATION OF THE WORK OF THE SESSION

Letter dated 4 April 2000 from the Permanent Representative of Colombia to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights*

Madam,

The Government of Colombia has had the opportunity to analyse the report (E/CN.4/2000/11) which your office prepared for submission to the Commission on Human Rights at its fifty-sixth session, on the activities of the Office in Colombia, the text of which was sent to us at the beginning of February via the Director of the Office in Bogotá, His Excellency Mr. Anders Kompass.

Accordingly, I wish to transmit to you, and through you to the Commission, the response (see annex) sent by the Minister for Foreign Affairs on 14 March 2000 to the Director of the Office in Colombia, reiterating the importance which my Government attaches to the work conducted by the Office, in view of the difficult situation vis-à-vis human rights and international humanitarian law in our country, for which reason we attach particular importance to the efforts which, through our joint activities, we can carry out to overcome current difficult circumstances.

(Signed) Camilo REYES RODRIGUEZ
Ambassador

* The annex is circulated in the language in which it was received and in English. The Government of Colombia has also transmitted various legal texts, which may be consulted in the secretariat.

Annex

REPUBLIC OF COLOMBIA

MINISTRY OF FOREIGN AFFAIRS

DM.7418 Santafé de Bogotá, 14 March 2000

Sir,

The Government of Colombia has had the opportunity to analyse the draft report prepared by your Office for submission to the Commission on Human Rights at its fifty-sixth session, concerning the activities of the Office in Colombia, the text of which was transmitted by you to us on an informal basis in early February 2000.

I would like to reiterate, first and foremost, the importance which the Government of Colombia attaches to the work carried out by the Office under your direction, in view of the difficult situation vis-à-vis human rights and international humanitarian law in our country, for which reason we attach particular importance to the efforts which, through our joint action, we can carry out to overcome the current difficult circumstances.

The aim of the report transmitted to the Government is to help - this is how our authorities see it - through a process of diagnosis, analysis and the formulation of sound recommendations - build and strengthen the foundations for efforts to tackle the very serious problems affecting the life of Colombians and finding solutions to those problems.

We are at one with the essential priorities and concerns set forth in your report, the same priorities and concerns to be found in our "Policy for the promotion, respect and guarantee of human rights and for the application of international humanitarian law", the basic obligation of the national Government and one which we aim to implement to the full, with the cooperation of Colombian society in its entirety.

Allow me to submit to you a series of comments, some of a general nature, others more specific, on the text of your report, which are designed to convey, in a constructive spirit and within the framework of our policy of transparency and cooperation with the international community, our views relating to the analyses made by your Office.

His Excellency Mr. Anders Kompass
Director, Office of the United Nations High Commissioner for Human Rights
in Colombia

The text of the report contains certain criteria and assessments, as well as some omissions and inaccuracies, to which the Government of Colombia does not subscribe and which it cannot accept in the form in which they are presented, since, in many cases, they determine the sense of the statements and generalizations which are repeated throughout the document. Accordingly, I would like, by way of introduction, to submit our own position on the general approach followed by the report, with the request that this position be taken into consideration when I refer in more detail to each of its recommendations.

Considerations of a general nature

The considerations which, besides the detailed points contained in the report, have particularly struck the government and State authorities to whom the document was transmitted, inasmuch as they largely determine the conceptual framework for the analysis of the current situation in the country and for the report as a whole, fall under four main headings.

There are four broad categories of considerations which, these shall be analysed with reference, first, to the description given in the report of the peace process conducted by the national Government with the rebel groups, an issue closely related to the assessment which in the report gives of the internal armed conflict and the role which it ascribes to that conflict, the topic dealt with under the second heading.

The scale of drug trafficking and the illicit drug economy - on which the report is almost silent - are the next issue to be assessed, followed by the description provided by your Office of the self-defence groups and its appraisal of the legal status of those groups.

Turning to the description of the peace process, the assessment provided by the report of the process currently under way has markedly little to say about the efforts undertaken to maintain conditions of dialogue and negotiation with FARC, and is also surprisingly unaware of the importance of the process and of the progress made in this area, which is indisputably greater than that made in any previous period in the more than 40 years of internal armed conflict in Colombia.

The report appears to understate - if not to ignore - the high degree of political will that has been mobilized and sustained even amid enormous difficulties, with a view to building a climate of confidence between the parties and to defining the agenda and the mechanisms designed and set in operation to accompany and help strengthen the process, such as the so-called thematic committees and the public hearings.

There is also no mention of the significant and country-wide popular movement calling for peace and an end to the crimes committed by the irregular armed groups.

This tendency to downplay the Colombian peace process and its achievements is all the more unjustified and inexplicable when it is recalled that, in its first report of 1998, the Office gave so much more attention to the unsuccessful attempts at that time to launch a negotiation process, subtitling one of its sections: "Situation in 1997: Electoral process and peace process", while the 1999 report devoted three paragraphs (30, 31 and 32) specifically to the negotiations which had been initiated at that time.

This imbalance is repeated in the chapter on recommendations, in which the Government, the other actors in the conflict and Colombian society are given only the merest encouragement to continue their efforts to achieve a negotiated solution to the armed conflict, while, in the 1999 report, additional and express encouragement is given to the Government to continue to explore the most appropriate ways of attracting the attention and support of the international community to the peace process.

With regard to the assessment of the internal armed conflict and the role assigned to that conflict, the approach taken by the report is a matter of particular concern. In the first place, the scale of the armed confrontation and the importance which it has for the general situation of human rights is widely underestimated. While the process of the deterioration of the conflict is recognized in the text of the report, its function as the trigger of countless violations of human rights appears not to be mentioned in this context.

In contrast to this description of the internal armed conflict, which is in fact resulting in a disguised campaign of retaliations and reprisals enacted by the protagonists and manifested in the commission of crimes against their supposed or actual rivals in contexts which are distant, in terms of both space and time, from the areas where the clashes are occurring; the armed conflict, regrettably, represents an important and direct source of those violations. A typical example of the kind of effects which it has is the recent phenomenon of systematic murders of members of the security forces and the police, a large number of whom have been killed while they were on leave.

One obvious effect of the armed conflict is to clog up and even to overwhelm the judicial system, resulting, inter alia, in the impunity of offenders and particularly severe outbreaks of violence within the detention centres. In this way, it also helps create a general atmosphere of distrust vis-à-vis the administration of justice and makes people inclined to take the law into their own hands and provide their own armed defence.

Second, the report only tangentially assigns a certain degree of significance to the internal armed conflict, inasmuch as it causes difficulties for the right of access to justice and for respect for such groups as women and ethnic minorities. And yet, in a way that must surely surprise any analyst, it is not considered as a relevant factor with regard to the violations and threats against the right to life.

Third, departing from the format of the previous two reports, the report devotes a subsection, within chapter IV, to the evolution of the armed conflict, in which it gives an extremely negative assessment of the mechanism of the so-called demilitarized zone established under law to promote the peace talks. This assessment, made without any clear and objective context, will confuse any unprepared reader.

The report limits itself to rehashing press reports of alleged murders, hostage-taking, recruitment of children and other restrictions on civil liberties by the rebel movement, without trying to analyse the decline in attested violations of the right to life by comparison with verified historical averages in the area covered by the demilitarized zone.

What is more serious, however, is that the criticism of this measure, which has a key role in the conduct of the talks held up the present and for the future of those talks, completely disregards their significance for the general furtherance of the peace process, which, at the very least, is a distortion of the picture given to the international community.

In addition, with regard to the scale of drug trafficking and the illicit drug economy, in marked contrast to the two previous reports, there is no mention in the text of the impact of the illicit drug business, the far-reaching consequences of the violent activities of drug trafficking and its constant presence as a structural factor providing an inexhaustible source of economic and financial fuel, not only to large organized criminal gangs but also to the outlaw groups themselves, which derive enormous resources from these activities for their existence, for the recruitment of new members and for their growing arsenals of military and technological equipment.

This absence of any reference to the phenomenon of drug trafficking is, quite honestly, hard to understand. The Government cannot accept it and deplores the omission, in the context of the general situation of human rights and international humanitarian law, of a phenomenon which, with its immense scope, has played, over the last two decades, and continues to play a deleterious role in the general situation in the country.

The Government finds it difficult to reconcile this conceptual vacuum with the requirement that the reports of the High Commissioner for Human Rights should be accurate and comprehensive, particularly since this conceptual omission will of necessity have irreparable consequences, leading to a distorted assessment of the phenomenon of the self-defence groups and the system of specialized justice, specifically conceived as a fundamental means of taking punitive action against the above-mentioned criminal organizations, as shall be explained below.

Finally, with regard to the description of the self-defence groups and the appraisal of the legal status of these groups, the Government would like emphatically to restate its determination to combat these groups with every means at its disposal, as well as its unequivocal decision to dismiss and to prosecute any public servant linked in any manner with their criminal activities, as this is a State policy of the Government of President Pastrana. We would also like to express our categorical and profound disagreement with regard to the general approach taken by the report to these groups and to the details of its description.

The Government's concerns about the manner in which Your Excellency addresses this matter in the report is based on the following specific considerations.

First, the Government of Colombia considers unacceptable the statement that it bears "undeniable historical responsibility for the origin and development of paramilitarism". This statement manifestly contradicts the complex historical context and social and political reality which made possible the emergence of this phenomenon.

As noted in the various analyses of this problem prepared by students and researchers at various academic centres in Colombia and abroad, the conditions favouring the emergence of these self-defence groups are created by a complex combination of interdependent causal factors. Nor can we ignore the important role in their origination played by the drug-trafficking groups

which, at the end of the 1980s, set about creating these groups in the Magdalena Medio area in open confrontation with the guerrilla units operating in that area and with the numerous clashes between the various groups for control of the drug-growing areas; we should also note the response of the plantation-owners and rural landowners who sought protection in these groups and contributed to their financing as a means of combating the growing phenomena of kidnapping, "boleteos" and vaccinations carried out by the guerrilla groups as a result of their strategic combat decision, at that time, to double the number of fronts on which they were operating.

Without doubt, further contributory factors were the precarious hold of the State and the weakness of the legitimate institutional system. But to proceed from that to such a sweeping charge of responsibility, without any temporal limitation, by making a rhetorical leap across the void, through a paragraph like the one in question, is quite unacceptable from whatever serious analytical standpoint this problem is considered.

The Government deplores the abandonment of any analytical perspective, as exhibited by this report in this crucial matter. It similarly rejects the explanation which is adduced in support of the argument that the self-defence groups were "protected by law from 1965 to 1989". The law passed in 1965 had as its purpose the establishment of a national militia in a context of relative institutional normality and historical records of homicide rates per 100,000 inhabitants two thirds lower than those to be recorded from 1989 and in the early 1990s.

Furthermore, what resulted in 1989 was not only a declaration of the unconstitutionality of that legislation, but also the criminalization of the activities of the self-defence groups, by making the various types of participation in the formation, promotion and support of, and collaboration with, the said groups' criminal offences. The criminalization of the self-defence groups has since then been a constant in Colombian criminal law.

The Government also wishes to state its non-acceptance of and disagreement with the supposition on which the report bases its charge that the Colombian State bears international responsibility for the practices in violation of human rights and the breaches of international humanitarian law committed by the self-defence groups. Repeating what was stated in your two previous reports, the present report insists on the criterion that the said responsibility is borne by individuals acting "at the instigation, with the consent or with the toleration of the authorities".

As the report recognizes, the provisions of international humanitarian law are fully applicable to the self-defence groups. Insofar as this approach constitutes an unequivocal recognition of the existence of a situation of armed conflict that is not international, particular relevance attaches to the parameters of international responsibility of the States in which a situation of that kind of armed confrontation is attested, as have been determined and described in recent rulings of the ad hoc tribunal established by the United Nations Security Council to try the perpetrators of war crimes and crimes against humanity in the former Yugoslavia.

In fact, the parameters for determining international responsibility borne by States differ, depending upon whether there is a state of institutional normality or, on the contrary, a situation of armed conflict and whether or not this is of an international nature. In accordance with the

judgement handed down by the above-mentioned tribunal on 15 July 1999 through its Appeals Chamber, there is a clear necessity to refer to international rules on State responsibility, because humanitarian rules do not provide the criteria for determining the State's responsibility for the activities of individuals belonging to an armed group who are not acting as State organs.

The Appeals Chamber concluded that the specific criterion which was required and applicable for determining responsibility in such cases was that of a degree of control by the State over armed units, which means that it had a "role in organizing, coordinating or planning the military actions of the military group, in addition to financing, training and equipping or providing operational support to such a group" (paras. 137 and 138 of the said judgement), and for the determination of which substantial evidence is required.

In addition, and by way of conclusion, suppositions of responsibility will clearly be different, under international human rights law, international humanitarian law or international criminal law, insofar as the nature, the beneficiaries, the rules themselves which guide those suppositions and the mechanisms for internal and international implementation are different. It is precisely for this reason that we cannot talk in general terms of the obligation of international responsibility of the State - as suggested by the report - without also indicating, in a specific manner, the branch of public international law which applies, as well as the specific and actual situation which is being analysed and which would give rise to the corresponding ruling of State responsibility.

In this context, the Government of Colombia has already indicated, in its comments on the 1999 report, which it reiterates on this occasion as well, that "the criminal actions of self-defence groups may constitute violations of human rights, but only in those cases - which, just because they are isolated, does not mean that they are not of extreme seriousness - where there was omission or active participation by public servants, in respect of whom the competent authorities have never hesitated and will not hesitate to conduct investigations and to impose penalties".

Similarly, the Government rejects categorically the sweeping assertion that "these groups have the support, acquiescence or toleration of State officials and benefit from the lack of an effective response by the State".

By its very scope, this assertion avoids the need to analyse in every situation or case the specific circumstances in which the actions of self-defence groups were observed to lead to the occurrence of violations, which, by some sort of a priori presumption entail the responsibility of the State.

The Government would like to call attention to the rigorous and careful way the Inter-American Commission on Human Rights has dealt with the same issue in its Third Report on the Situation of Human Rights in Colombia, in which an exhaustive examination of the facts under analysis leads up to concise conclusions specifically limited to the cases under scrutiny, without any of the generalizations that appear to inspire the report we are dealing with.

Furthermore, the Government considers that the alleged facts on which the report's general assessment of self-defence groups rests are also far removed from reality.

The supposed support, acquiescence and toleration of State officials criticized in the report are in no way related to any institutional policy or to instructions by any State agency. Quite on the contrary, the actions of self-defence groups have on several occasions been directed against State officials with fatal results and through reiterated threats, against the right to life of many public officials.

Evidence of this is provided by the attack carried out by these groups on a judicial commission which was conducting investigations and proceedings for the extinguishment of ownership in San Carlos de Guaroa in July 1997, on which occasion 15 civil servants were assassinated, including investigators and members of the security forces. This event, it may be recalled, was not mentioned in the 1998 report, although it occurred well within the period elapsed since the Office in Colombia was set up in the country.

Moreover, the armed struggle against them has considerably intensified in the last five years, leading to the shooting of 88 of their members and the judicial capture of 705 more. Between 1995 and 1999, the security forces were involved in 256 armed clashes with those groups. Where this year is concerned, up to 28 February 2000, there were 14 casualties among members of the groups, 46 arrests and the seizure of a great quantity of sophisticated war material.[1] The figures show conclusively the State forces' determination to combat these groups, particularly in view of the fact that, according to official data, there are believed to be around 5,000 members of self-defence groups, compared with a figure of close to 25,000 in the guerrilla forces, which proportionality should be taken into account in any evaluation of overall results.

Conceptual comments

The Government would also like to draw attention to some terminological changes introduced in the latest report compared with earlier reports.

As mentioned already by the Government in its comments submitted in 1998, there were objections to the description used at that time to the effect that human rights violations in Colombia were "serious, gross and systematic", insofar as that constituted a jurisdictional type of assessment and because it did not take account of a situation in which the State was undertaking many courses of action in its efforts to further the promotion and defence of human rights.

The Government notes that the latest report refers to a new pattern of "proliferation, repetitiveness and persistence", which means that the Office has significantly shifted its initial stand. The new version is no doubt in closer conformity with the terms of the mandate of the Office of the High Commissioner in Colombia and its position as observer, which shows that it is worth heeding the Government's comments, and the latter would like to express the hope that a similar attitude will be adopted with respect to the issues dealt with in this document, once its scope has been assessed and discussed.

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[1] Some statistical tables are annexed summarizing the results of the struggle against self-defence groups, insurgents and common offenders from 1995 to 1999, and against self-defence groups in the months of January and February 2000.

The Government, moreover, is puzzled by the term "kidnapping" used to describe the guerrilla's actions without the aggravating circumstance of extortion, and its full inclusion in the category of hostage taking.

The Government also fails to understand that, while Colombia has legally approved the 1997 Ottawa Convention, the use of antipersonnel mines by outlaw groups, which is contrary to international humanitarian law, and which was mentioned in the two previous reports, is not referred to in this one, even though the indiscriminate use of landmines by these groups has not been stopped, or even reduced, in the course of the past year.

The Government would also like to point out that, while earlier reports - with greater methodological thoroughness - drew a distinction among the complaints received by the Office between those that were disregarded, admitted and transmitted to the national authorities, the latest report only mentions an overall number, without giving the breakdown as before; it also refers to events occurring in periods which are not covered by the report.

Final considerations

Having clarified these few questions of concept, the Government would like to highlight that the duration of the Office's operations in Colombia was extended in 1999, by common agreement between the parties, from 12 to 24 months, as well as the opportunity for the Office to enjoy greater independence in managing its own staff, in order to fulfil its mandate more efficiently, which reflects the Government of Colombia's clear wish to pursue further its policy of transparency and cooperation with the international community.

We have also been working together on the conceptual and operational definition of an early warning system, which will allow the authorities to respond in an effective and timely fashion to threats of serious human rights violations or breaches of international humanitarian law. In this respect the Government hopes to adopt practical measures to implement the scheme as soon as possible.

The Government of Colombia wishes to reiterate its interest and commitment in pursuing the general objective agreed between the parties at the time the Office in Colombia was set up, whereby the latter "shall observe the human rights situation with a view to advising the Colombian authorities on the formulation and implementation of policies, programmes and measures to promote and protect human rights in the climate of violence and internal armed conflict prevailing in Colombia, and to enable the High Commissioner to make analytical reports to the Commission on Human Rights. In carrying out its mandate, the Office will focus its activities on cooperation with the Government of Colombia in order to assist in improving the human rights situation and, in conjunction with ICRC, to promote, within the limits of their respective mandates, respect for an observance of human rights and international humanitarian law in Colombia."

The Government of Colombia therefore hopes that the clarifications and comments offered herewith will be taken into account by the Office when they officially transmit their report to the Commission on Human Rights, with due regard to the climate of trust and cooperation which must exist between the Government and the Office. At the same time,

it would like to assure the Office that all measures and recommendations that are likely to improve our situation will be adopted by the Government of President Pastrana, as a means of improving the humanitarian situation in the country.

In this respect, with a view to enabling all the parties to the agreement on the basis of which the Office originated, better to evaluate and discuss in detail both the current situation and appropriate measures for overcoming the negative factors affecting it, I attach a document listing the State's actions and details relating to each of the recommendations contained in the report, in order to facilitate future discussions concerning those recommendations.

Lastly, I must express the Government's surprise at the fact that the report has been disseminated in national and foreign media, to the detriment of the terms of confidentiality and the serious and responsible approach needed in handling this issue. The Government would like to receive an explanation, in view of the fact that, as Your Excellency will recall, a specific request was made for the report not to be distributed until we had had a chance to submit a reply, and until such time as the Office had been able to take official comments into consideration.

Yours sincerely,

(Signed): GUILLERMO FERNANDEZ DE SOTO
Minister for Foreign Affairs

SECURITY FORCES OPERATIONAL RESULTS

1995-1999

DESCRIPTION	1995	Military	Police	1996	Military	Police	1997	Military	Police	1998	Military	Police	1999	Total
1. REBEL FORCES														
OPERATIONS														
Skirmishes	829	703	281	984	679	356	1 035	548	340	888	592	431	1 023	4 759
Casualties	682	764	24	788	779	57	836	739	89	828	1 019	57	1 076	4 210
Prisoners	1 446	3 426	365	3 791	2 655	479	3 134	2 015	553	2 568	786	457	1 243	12 182
Escapees	107	113		113	96		96	144		144	56		56	516
WEAPONS SEIZED														
Rifles	1 028	1 486	15	1 501	1 244	21	1 265	188	30	218	1 207	37	1 244	5 256
Small arms	2 010	1 424	29	1 453	999	43	1 042	712	32	744	1 083	39	1 122	6 371
Mortars	0	35		35	1		1	0		0	24		24	60
Grenades	1 632	721	38	759	1 051	20	1 079	1 317	34	1 351	1 505	35	1 540	6 361
Munitions different calibres	453 060	451 079		451 079	405 125		405 125	198 677		198 877	304 024		304 024	1 812 165
CASUALTIES OWN FORCES														
Killed	359	408	145	553	292	198	490	458	178	636	342	220	562	2 600
Wounded	612	762	212	974	545	301	846	660	315	963	491	318	809	4 224
Disappeared	0	6		6	6		6	15		15	9		9	36
Kidnappings	17	2	22	24	34	16	50	191	206	397	135	109	244	732
Civilians killed	418		431	431		603	603		599	599		643	643	2 694
Civilians wounded	115		103	103		235	235		329	329		126	126	908
Civilians kidnapped	535		651	651		1 168	1 168		857	657		1 253	1 253	4 464
2. SELF-DEFENCE FORCES														
OPERATIONS														
Skirmishes	0	1		1	0	15	15	70	36	106	80	54	134	256
Casualties	0	2		2	0	15	15	29	7	36	26	9	35	88
Prisoners	18	6		6	0	66	66	104	225	329	116	170	286	705
WEAPONS SEIZED														
Arms	0	0		0	0		0	149		149	130		130	279

DESCRIPTION	1995	Military	Police	1996	Military	Police	1997	Military	Police	1998	Military	Police	1999	Total
Munitions different calibres	0	0		0	0		0	17 779		17 779	16 905		16 905	34 684
Grenades	0	0		0	0		0	151		151	218		218	369
CASUALTIES OWN FORCES														
Killed	0	0		0	0		0	1	4	5	1		1	6
Wounded	0	0		0	0		0	0	2	2	2		2	4
Disappeared	0	0		0	0			0		0	0		0	0
Kidnappings	0	0		0	0		0	0		0	0	2	2	2
Civilians killed	18	31		31	0	78	78	215	185	400	743	495	1 238	1 765
Civilians wounded	0	0		0	0		0	16		16	25		25	41
Civilians kidnapped	8	50		50	0	43	43	90	45	135	98	101	199	435
Items seized														
Vehicles	5	0		0	0		0	17		17	38		38	60

3. COMMON OFFENCES														
OPERATIONS														
Skirmishes	5	16		16	159		159	9		9	5		5	194
Casualties	101	85	0	85	47	141	188	46	165	211	28	116	144	729
Prisoners	2 109	1 899	0	1 699	949	6 461	7 410	751	6 584	7 335	1 420	6 070	7 490	26 243
WEAPONS SEIZED														
Arms	27 244	0	28 604	28 604		31 471	31 471		38 316	38 316	0	40 151	40 151	155 786
Munitions different calibres	210 170	0	174 777	174 777		232 762	232 762		295 759	295 759	38 633	469 319	507 952	1 421 420
CASUALTIES OWN FORCES														
Killed	391	133	177	310	0	180	180	1	180	181	65	159	224	1 286
Wounded	715	108	571	679	72	520	592	1	456	457	56	570	625	3 286
Disappeared	0	0		0	0		0	0		0	0		0	0
Kidnappings	0	0		0	50		50	0		0	2		2	52
Common homicide	27 244		26 842	26 842		25 379	25 379		23 906	23 906		24 394	24 394	127 765
Common personal injuries	29 248		29 440	29 440		27 095	27 095		26 355	26 355		26 639	26 639	138 777
Civilians kidnapped	623		957	957		818	818		1 752	1 752		1 885	1 885	6 035
RECOVERED ITEMS														
Vehicles	7 901		9 516	9 516		10 992	10 992		12 580	12 580		17 184	17 184	58 173
Motor cycles	4 873		5 594	5 594		6 644	6 644		8 606	8 606		11 356	11 366	37 073
Other ($'000)	146 569		210 963	210 963		269 924	269 924		330 695	330 695		462 428	462 428	1 420 579

RESULTS OF OPERATIONS AGAINST SELF-DEFENCE FORCES
(1 January to 28 February 2000)

Description	EJC	ARC	FAC	Total
Casualties	12	2		14
Prisoners	31	15		46
Deserters	1			1
Rifles	25	13		38
Mortar				
Machine guns		1		1
Sub-machine guns	1			1
Shotguns	4			4
Carbines				
Pistols	10			10
Revolvers	7	1		8
Hand grenades	20	4		24
Rifle grenades	6	1		7
Mortar grenades				
MGL grenades		9		9
M72 rocket launcher		1		1
MGL grenade launcher				
M79 grenade launcher				
Munitions different calibres	4 123	3 886		8 009
Dynamite (kilos)				
Fuses (metres)				
Mines seized	14			14
Dealers	33	50		83
Vehicles	7			7
Flares				
Outboard motors		1		1
Motorcycles	4			4
Fire engine				
Communication equipment	6			6
Computer				
Primers	23			23
Self-defence pamphlets	1			1
Mobiles	1			1
Television sets				
False registration plates	4			4
Cash jewels				
Planes brought down				1
Money				